

Centennial Lane, LLC
12 Assabet Crossing,
Acton, MA 01720

June 1, 2009

TO: Planning Board, Town of Acton
RE: Amendment to the Planning Board Decision #06-06

We request an amendment to the Planning Board Decision #06-06 to clarify the status of Lot 4 relative to the maintenance of the private formerly known as Renwick Way and currently known as Centennial Lane.

Referenced Documents:

Recorded Amended & Restated Private Way Covenant & Agreement: Book 51483, Pages 335 – 341
Planning Board Decision 06-06
Email from Corey York on the subject

BACKGROUND

The Private Way Maintenance Agreement dated May 2, 2007 – Since amended July 15, 2008 - appears to the Engineering Dept. to require the owner of Lot 4 to be jointly responsible for the upkeep of the private way off Main Street. At the time the Department was unaware of the existence of the Amended version.

The **amended agreement** omits Lot 4 from the agreement such that Lot 4 is no longer held jointly responsible for the upkeep of the private way. Cory York "skimmed through the amended agreement and found that this appears to be true". The issue is that the Planning Board Decision was based on the original Private Way Covenant & Agreement. Condition 3.3.6 of the Planning Board Decision #06-06 for Centennial Lane (formerly Renwick Way) states that:

- "The Way **in its entirety** shall be maintained by the owners of lots with frontage on the Way in accordance with the Private Way Covenant and Agreement as amended herein."

The improved-portion of the Private Way does not abut Lot 4 as shown on Plan 987 of 2007. However, the un-improved section of the Private Way extends along Lot 4 to Conant Street. Finding and Conclusion 2.3 describes the Way

- "as shown on the record plan is located between lots and parcels of land and leading from Main Street (between 43 and 47 Main Street) to Conant Street (south adjacent to 15 Conant Street) for a distance of 1,000± feet.

On the ground, the way is improved for driveway purposes from Main Street for a distance of 500± feet. Wetlands occupy most of the remaining 500 +/- feet of the Way to Conant. And abuts Lot 4.

SUMMARY:

Cory interpreted the Decision to include the entire (improved and un-improved) way. Centennial Lane, LLC requests the Decision should be amended to reflect that the Amended & Restated Private Way Covenant & Agreement excludes Lot 4.

Thank You,

Paul Gaboury
Centennial Lane LLC
978-618-1729

From: Corey York
Sent: Wednesday, May 27, 2009 11:11 AM
To: Planning Department
Cc: Bruce Stamsk
Subject: FW: Centennial Lane Lot 4 Driveway maintenance

John M has asked me to verify Paul Gaboury's comment that lot 4 is no longer held jointly responsible to maintain Centennial Lane.

In my prior email about Paul's offer to give Lot 4 to the Town, I made the following comment based on the Private Way Maintenance Agreement dated May 2, 2007:

- "I was reading through the Private Way Maintenance Agreement for Centennial Lane and the agreement appears to require the owner of this lot to be jointly responsible for the upkeep of the private way on Main Street. I believe that the Maintenance Agreement only excludes this lot from the responsibilities for the access, grading and utility easement located on Lot 1A."

Paul stated that they amended the Private Way Maintenance Agreement on July 15, 2008. The amended agreement omits Lot 4 from the agreement such that Lot 4 is no longer held jointly responsible for the upkeep of the private way. I skimmed through the amended agreement and this appears to be true.

I have a question about Condition 3.3.6 in the Planning Board Decision #06-06 for Centennial Lane (formerly Renwick Way). Condition 3.3.6 states that

- "The Way in its entirety shall be maintained by the owners of lots with frontage on the Way in accordance with the Private Way Covenant and Agreement as amended herein. This shall include the removal of snow and ice. The Applicant and the owners of lots with frontage on the Way shall not petition the Town to provide snow and ice removal services in the Way or to provide any other maintenance and upkeep of the Way".

The improved-portion of the Private Way does not abut Lot 4 as shown on Plan 987 of 2007. However, the un-improved section of the Private Way extends along Lot 4 to Conant Street. I am not sure if the intent of the Decision was to include all the Lots, including Lot 4, along the entire way (improved and un-improved). Finding and Conclusion 2.3 describes the Way

- "as shown on the record plan is located between lots and parcels of land and leading from Main Street (between 43 and 47 Main Street) to Conant Street (south adjacent to 15 Conant Street) for a distance of 1,000± feet. On the ground, the way is improved for driveway purposes from Main Street for a distance of 500± feet. Wetlands occupy most of the remainder of the Way to Conant."

I interpreted the Decision to include the entire (improved and un-improved) way. If so, does Paul Gaboury need to request an amendment of the Planning Board decision to allow the omission of Lot 4 from the private way agreement?

Thank you,
Corey

Kim DeINigro

From: Paul Gaboury [paul.gaboury@verizon.net]
Sent: Monday, June 01, 2009 9:11 AM
To: Kim DeINigro
Cc: Glen Kaufmann; Corey York
Subject: Motion to amend Decision 06-06
Attachments: Centennial Lane Private Way Covenant and Agmnt0001.pdf; Motion to amend Planning Board Decision #06-06.doc; Planning Board Decision 06-06.pdf

I've attached a memo and supporting documents regarding the proposed amendment we talked about last week. Please place this on the agenda of the Planning Board.

Thank You,

Paul

6/1/2009